

South Australia



**EMERGENCY SERVICES FUNDING (MISCELLANEOUS)
AMENDMENT ACT 1999**

No. 61 of 1999

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ELIZABETHAE II REGINAE

A.D. 1999

No. 61 of 1999

An Act to amend the Emergency Services Funding Act 1998.

[Assented to 19 August 1999]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Emergency Services Funding (Miscellaneous) Amendment Act 1999*.

(2) The *Emergency Services Funding Act 1998* is referred to in this Act as "the principal Act".

Commencement

2. (1) Subject to subsection (2), this Act will be taken to have come into operation on 30 June 1999.

(2) Section 4 and paragraphs (b), (c), (d) and (e) of section 9 will come into operation on the day on which this Act is assented to by the Governor.

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended—

(a) by striking out paragraph (e) of the definition of "owner" in subsection (1) and substituting the following paragraph:

- (e) where the land is held from the Crown under lease, licence or agreement to purchase—
 - (i) if the lease, licence or agreement confers a right to occupy the land—the person entitled to the right of occupation;
 - (ii) in any other case—the Crown,;

(b) by inserting the following subsection after subsection (1):

(1a) Where unalienated land of the Crown is held from the Crown under a licence, the ownership of the land for the purposes of this Act will be determined in accordance with paragraph (e) of the definition of "owner" in subsection (1) and not in accordance with paragraph (d) of that definition.

Repeal of Part 2

4. Part 2 of the principal Act is repealed.

Amendment of s. 5—Land that is subject to the levy

5. Section 5 of the principal Act is amended—

(a) by inserting the following word and paragraph after paragraph (b) of subsection (2):

or

(c) any aggregation of land pursuant to subsection (2a).;

(b) by inserting the following subsection after subsection (2):

(2a) Where two or more pieces or sections of land or aggregations of contiguous land are not contiguous they may be aggregated for the purposes of subsection (2)(c) if—

(a) the owner or occupier of all of the land concerned is the same person; and

(b) all of the land is used to carry on the business of primary production and is managed as a single unit for that purpose; and

(c) all of the land is either situated in the area of the same council under the *Local Government Act 1934* or is situated in a part of the State that is not in the area of a council.;

(c) by inserting the following subsection after subsection (9):

(10) Residential land held from the South Australian Housing Trust under a lease, licence or agreement to purchase is exempt from the imposition of a levy under this Division.

Insertion of s. 5A

6. The following section is inserted after section 5 of the principal Act.

Application for aggregation of non contiguous land

5A. (1) The owner or occupier of land may apply to the Minister for the aggregation of non contiguous land for the purposes of section 5(2)(c).

(2) The application must—

(a) be in writing; and

(b) be received by the Minister on or before 31 March immediately preceding the first financial year to which the aggregation of the land will relate (an application in respect of the 1999/2000 financial year must be received on or before 30 November 1999).

(3) The applicant must provide the Minister with such information and evidence as the Minister reasonably requires to consider the application.

(4) The Minister must serve notice of his or her decision on the applicant and, if the application is refused, the notice must include the Minister's reasons for refusing the application.

(5) An applicant may appeal against the Minister's refusal to the Administrative and Disciplinary Division of the District Court.

(6) The appeal must be made within 28 days after the notice is served on the applicant under subsection (4).

(7) If the basis on which land is aggregated for assessment purposes under section 5(2)(c) ceases to exist, the owner of the land must immediately inform the Minister of that fact.

Maximum penalty: \$2 500.

Amendment of s. 8—Land uses

7. Section 8 of the principal Act is amended by striking out the definition of "the relevant day" from subsection (5) and substituting the following definition:

"the relevant day" in respect of a financial year specified in a notice under section 10(1) means the day (whether occurring on, before or after the day on which the notice is published in the *Gazette*) specified in the notice as the relevant day in respect of that year;

Amendment of s. 9—Objection to attribution of use to land

8. Section 9 of the principal Act is amended by striking out "21 days" from paragraph (c) of subsection (2) and substituting "60 days".

Amendment of s. 10—Declaring the levy and the area and land use factors

9. Section 10 of the principal Act is amended—

(a) by inserting the following word and subparagraph after subparagraph (ii) of paragraph (b) of subsection (1):

and

(iii) the relevant day for the purposes of section 8;

(b) by striking out from subsection (5) "the Minister must consult and consider the advice (which must be in writing) of the Emergency Services Funding Advisory Committee" and substituting—

"the Minister must refer to the Economic and Finance Committee of Parliament a written statement setting out the determinations that the Minister proposes making under subsection (4) in respect of the relevant financial year and must not make recommendations to the Governor under subsection (1) or determinations under subsection (4) until the Committee has reported to Parliament or has failed to report within the time required by subsection (5a)";

(c) by inserting the following subsection after subsection (5);

(5a) It is a function of the Economic and Finance Committee of Parliament to enquire into, consider and report on the Minister's statement within 21 days after it is referred to the Committee under subsection (5);

(d) by striking out paragraph (c) of subsection (6);

(e) by striking out "and the Committee's advice referred to in subsection (5)" from subsection (7);

(f) by striking out "resolution of the House of Assembly" from paragraph (b) of subsection (8) and substituting "resolution passed by both Houses of Parliament".

Amendment of s. 11—Liability of the Crown

10. Section 11 of the principal Act is amended—

(a) by inserting after "the Crown" in paragraph (a) of subsection (2) "(but only if the Crown is the owner of the land as defined in section 3)";

(b) by inserting after "purchase" in paragraph (d) of subsection (2) "(but only if the Crown is the owner of the land as defined in section 3)".

Amendment of s. 12—Minister to keep assessment book

11. Section 12 of the principal Act is amended by striking out from subsection (3) "must" and substituting "may".

Substitution of s. 14

12. Section 14 of the principal Act is repealed and the following section is substituted:

Inspection of assessment book

14. A person is entitled, on payment of a fee fixed by the Minister—

(a) to inspect the assessment book during ordinary office hours; or

(b) to a copy of an entry made in the assessment book.

Amendment of s. 15—Liability for the levy

13. Section 15 of the principal Act is amended by striking out "on 1 July" from subsection (1) and substituting "at 12.01 a.m. on 1 July".

Amendment of s. 16—Notice of levy

14. Section 16 of the principal Act is amended by striking out "on 1 July" from subsection (1) and substituting "at 12.01 a.m. on 1 July".

Amendment of s. 24—Declaring the amount of the levy

15. Section 24 of the principal Act is amended—

- (a) by striking out "the next financial year" from subsection (7) and substituting "a subsequent financial year or years";
- (b) by inserting after "each year" in subsection (7) "(the amount payable on registration will be determined on the assumption that the amount of the levy to be declared in respect of a subsequent year or years will be the same as the levy declared in respect of the year in which the period of registration commences)";
- (c) by striking out "resolution of the House of Assembly" from paragraph (b) of subsection (8) and substituting "resolution passed by both Houses of Parliament".

Amendment of s. 28—The Community Emergency Services Fund

16. Section 28 of the principal Act is amended by inserting the following paragraph and word after paragraph (a) of subsection (3):

- (ab) money to be paid into the Fund by the Treasurer pursuant to this Act; and.

Amendment of s. 32—Service of notices

17. Section 32 of the principal Act is amended by striking out paragraph (d) of subsection (2) and substituting the following paragraph:

- (d) be sent to the person by any form of electronic transmission (including facsimile transmission) indicated by the person as being an available means of service;.

Amendment of s. 33—Remission of levies by regulation

18. Section 33 of the principal Act is amended—

- (a) by striking out "the remission of one or both of the levies" from subsection (1) and substituting "a remission or remissions in respect of one or both of the levies, or part of one or both of the levies,";

- (b) by inserting the following word and paragraph after paragraph (c) of subsection (1):

or

- (d) other persons or bodies of a class prescribed by the regulations.;

- (c) by inserting the following subsections after subsection (2):

(3) A regulation under this section may be brought into operation on a date specified in the regulation that is earlier than the date of its publication in the *Gazette*.

(4) The Minister must determine the aggregate amount of the levy remitted under this section in respect of each financial year.

(5) The Treasurer must pay in accordance with the regulations from the Consolidated Account (which is appropriated to the necessary extent) for the purpose of remissions under this section an amount equivalent to the amount determined under subsection (4).

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Insertion of s. 33A

19. The following section is inserted after section 33 of the principal Act:

Recouping money lost on aggregation of non contiguous land

33A. (1) The Minister must, in respect of each financial year, determine the amount by which money received in payment of the levy under Part 3 Division 1 is reduced as a result of the aggregation of land for the purposes of section 5(2)(c).

(2) The Treasurer must pay into the Fund in each financial year from the Consolidated Account (which is appropriated to the necessary extent) an amount equivalent to the amount determined under subsection (1) in respect of that year.

Amendment of Schedule 2

20. Schedule 2 of the principal Act is amended by inserting after clause 4 the following clause:

Report on changes to insurance premiums

4A. (1) The Commissioner for Consumer Affairs must, on or before 30 September 2000, forward to the Minister a report on the effect that the enactment of this Act has had on insurance premiums in the State in respect of the 1999/2000 financial year with particular reference to the extent to which savings afforded to insurers through the enactment of this Act have been passed on to policy holders.

(2) The Minister must, within six sitting days after receiving the report required under subclause (1), have copies of the report laid before both Houses of Parliament.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor